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MYSORE LEGISLATIVE ASSEMBLY

NOTIFICATION

No. 12011/L.A., Bangalore-1, dated 12th January 1965.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly, the Speaker has been pleased to order the publication in the *Mysore Gazette* of **The Code of Criminal Procedure (Mysore Amendment) Bill, 1965**, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

THE CODE OF CRIMINAL PROCEDURE (MYSORE AMENDMENT) BILL, 1965.

A Bill to amend the Code of Criminal Procedure, 1898, in its application to the State of Mysore.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) in its application to the State of Mysore, to provide for a uniform law for the separation of the performance of judicial and executive functions by officers in the State and for certain other matters hereinafter appearing ;

BE it hereby enacted by the Mysore State Legislature in the Fifteenth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Code of Criminal Procedure (Mysore Amendment) Act, 1965.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint.

2. Repeal of certain Acts in force in the Bombay Area of the State.—(1) The following enactments in force in the Bombay Area of the State are hereby repealed :—

(i) The Bombay Separation of Judicial and Executive Functions Act, 1951 (Bombay Act 23 of 1951) ;

(ii) The Bombay Separation of Judicial and Executive Functions (Supplementary) Act, 1954 (Bombay Act 8 of 1954);

(iii) The Bombay Criminal Procedure (Amendment) Act, 1953 (Bombay Act 34 of 1953) ;

(iv) The Code of Criminal Procedure (Bombay Amendment) Act, 1954 (Bombay Act 71 of 1954);

(v) The Code of Criminal Procedure (Bombay Amendment) Act, 1955 (Bombay Act 39 of 1955);

(vi) The Code of Criminal Procedure (Bombay Amendment) Act, 1956 (Bombay Act 20 of 1956).

(2) As from the date this Act comes into force the amendments made in the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) (hereinafter referred to in this Act as the principal Act,) by the enactments repealed by sub-section (1) (hereinafter in this section referred to as the "repealed Acts"), shall cease to continue and shall be omitted from the Code and such of the provisions thereof as were affected by the repealed Acts shall stand revived to the extent to which they would have otherwise continued in operation, but for the passing of the repealed Acts; and after such revival, the amendments made to the Code by this Act shall become operative :

Provided that in respect of the provisions which cease to continue by virtue of this section, the provisions of section 6 of the Mysore General Clauses Act, 1899 (Mysore Act 3 of 1899), shall be applicable, as if such provisions were enactments repealed by a Mysore Act and in respect of provisions which cease to continue, but are re-enacted by this Act, the provisions of section 24 of the said Mysore General Clauses Act, 1899, shall be applicable as if the said provisions had been repealed but re-enacted by a Mysore Act.

3. Substitution of new section for section 6.—For section 6 of the principal Act, the following section shall be substituted, namely :—

"**6. Classes of Criminal Courts.**—Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Mysore, namely :—

(i) Courts of Session,

(ii) Courts of Magistrates."

4. Insertion of a new section 6A.—After section 6 of the principal Act, the following heading and section shall be inserted, namely .—

"A-1—Classes of Magistrates.

6A. Classes of Magistrates.—There shall be the following classes of Magistrates, namely :—

I. Judicial Magistrates.—

(1) Magistrates of the First Class ;

(2) Magistrates of the Second Class ;

(3) Magistrates of the Third Class ;

(4) Special Judicial Magistrates.

II. Executive Magistrates.—

(1) District Magistrates ;

(2) Sub-Divisional Magistrates ;

(3) Taluk Magistrates ;

(4) Special Executive Magistrates."

5. Substitution of new section for section 7.—For section 7 of the principal Act, the following section shall be substituted, namely :—

"**7. Sessions Divisions and Districts.**—(1) The State of Mysore shall consist of Sessions Divisions; and every Sessions Division shall, for the purpose of this Code, be a district or consist of districts.

(2) For the purpose of this Code, the City of Bangalore shall be a Sessions Division and be deemed to be a district;

(3) The State Government may alter the limits or the number of such divisions and districts ;

(4) The Sessions Divisions and districts existing when the Code of Criminal Procedure (Mysore Amendment) Act, 1965, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered".

6. Amendment of section 10.—In section 10 of the principal Act,—

(i) in sub-section (1), the words "Magistrate of the First Class, who shall be called the" shall be omitted;

(ii) in sub-section (2),--

(a) for the words "any Magistrate of the First Class to be an Additional District Magistrate", the words "one or more Additional District Magistrates", shall be substituted; and

(b) for the words "such Additional District Magistrate" the words "an Additional District Magistrate" shall be substituted;

(iii) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) For the purposes of sub-section (3) of section 192, and sub-sections (3) and (3A) of section 528, an Additional District Magistrate shall be deemed to be subordinate to the District Magistrate".

7. Substitution of new sections for sections 12, 13 and 14.—For sections 12, 13 and 14 of the principal Act, the following sections shall be substituted, namely :-

"**12. Judicial Magistrates.**—(1) The State Government may appoint as many persons as it thinks fit to be Magistrates of the first, second or third class in any district, and the Sessions Judge subject to the control of the High Court, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code :

Provided that the power of appointment of Magistrate under this sub-section shall on the issue of a public notification under Article 237 of the Constitution, be exercised subject to the terms of the said notification.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such Magistrates shall extend throughout such district.

13. Appointment of Sub-Divisional Magistrates and Taluk Magistrates and their Jurisdiction.—(1) The State

Government may appoint as many persons as it thinks fit to be Sub-Divisional Magistrates and Taluk Magistrates in any district.

(2) The State Government, or, subject to the control of the State Government, the District Magistrate, may place—

(i) one or more Sub-Divisional Magistrates in charge of a Sub-Division, and

(ii) one or more Taluk Magistrates in charge of a Taluk.

14. Special Magistrates.—(1) The State Government may, in consultation with the High Court, confer upon any person who holds or has held any judicial post under the Union or a State, or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the official Gazette, all or any of the powers conferred or conferable by or under this Code, on a Judicial Magistrate in respect to particular cases or to a particular class of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such terms as the State Government may, in consultation with the High Court, by general or special order, direct.

(2) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct :

Provided that no powers shall be conferred under this sub-section on any police officer below the grade of an Assistant or Deputy Superintendent and no power shall be conferred on a police officer, except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being

brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(3) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (2)."

8. Amendment of section 15.—In sub-section (1) of section 15 of the principal Act, for the word "Magistrates" the words "Judicial Magistrates" shall be substituted.

9. Amendment of section 16.—In section 16 of the principal Act, for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate", the words "The High Court, subject to the approval of the State Government" shall be substituted.

10. Amendment of section 17.—In section 17 of the principal Act,—

(i) in sub-section (1),—

(*a*) for the words "All Magistrates" the words "All Judicial Magistrates" shall be substituted;

(*b*) the figures "13" shall be omitted;

(*c*) for the words "District Magistrate", the words "Sessions Judge" shall, be substituted;

(*d*) the word "and" at the end shall be omitted;

(*ii*) Sub-section (2) and sub-section (5) shall be omitted;

(*iii*) in the marginal note to the said section, for the word "Magistrates", the words "Judicial Magistrates" and for the words "District Magistrate", the words "Sessions Judge" shall be substituted.

(*iv*) in sub-section (4) for the words "by the District Magistrate, and such Judge or Magistrate" the words "by the Sessions Judge or Additional or Assistant Sessions Judge of an adjoining

Division,' and such Judge" shall be substituted.

11. Insertion of new sections 17A and 17B.—After section 17 of the principal Act, the following sections shall be inserted, namely :—

"**17A. Subordination of Executive Magistrates.**—(1) All Executive Magistrates appointed under section 13 or section 14 shall be subordinate to the District Magistrate ; and every Taluk Magistrate shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Magistrates subordinate to him and as to allocation of business to an Additional District Magistrate.

17B. Inferior Criminal Courts.—Courts of Session and Courts of Magistrates shall be criminal courts inferior to the High Court and Courts of Magistrates shall be criminal courts inferior to the Court of Session."

12. Amendment of section 29B.—In section 29B of the principal Act,—

(*i*) the words "a District Magistrate or" shall be omitted ;

(*ii*) for the words "by any Magistrate specially empowered by the State Government", the words "by any Judicial Magistrate specially empowered by the State Government" shall be substituted.

13. Amendment of section 30.—In section 30 of the principal Act, the words "District Magistrate", at both the places where they occur, shall be omitted.

14. Amendment of section 36.—In section 36 of the principal Act, for the words "District Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes", the words "Judicial and Executive Magistrates other than Special Judicial and Special Executive Magistrates" shall be substituted.

15. Substitution of new section for section 37.—For section 37 of the principal Act, the following section shall be substituted, namely :—

"**37.--Additional powers conferable on Magistrates.**—(1) In addition to his ordinary powers, the State Government may invest any Magistrate with any of the powers as specified in the Fourth Schedule.

(2) The State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the Fourth Schedule."

16. Amendment of section 38.—In section 38 of the principal Act, for the words "conferred on the District Magistrate by", the words "delegated to the District Magistrate under" shall be substituted.

17. Amendment of section 57.—In sub-section (2) of section 57 of the principal Act, for the words "before a Magistrate, if so required", the words "before a Magistrate having jurisdiction, if so required" shall be substituted.

18. Amendment of section 63.—In section 63 of the principal Act, for the words "special order of a Magistrate", the words "special order of a Magistrate having jurisdiction" shall be substituted.

19. Admendment of section 78.—In sub-section (1) of section 78 of the principal Act, after the words "or Sub-Divisional Magistrate", the words "or Magistrate of the First Class" shall be inserted.

20. Amendment of section 88.—In section 88 of the principal Act, in sub-section (6C) the words "of the First or Second Class" shall be omitted.

21. Amendment of section 106.—In sub-section (1) of section 106 of the principal Act, the words "a District Magistrate, a Sub-Divisional Magistrate" shall be omitted.

22. Amendment of section 107.—In sub-section (1) of section 107 of the principal Act, for the words "Magistrate of the First Class", the words "a Magistrate of the first class specially empowered by the State Government in this behalf" shall be substituted.

23 Amendment of section 108.—In section 108 of the principal Act, after the words "District Magistrate" the words "or Sub-Divisional Magistrate" shall be inserted.

24 Amendment of section 109.—In section 109 of the principal Act, for the words "Magistrate of the First Class", the words "a Magistrate of the First Class specially empowered by the State Government in this behalf" shall be substituted.

25. Amendment of section 126.—In section 126 of the principal Act,—

(i) in sub-section (1), for the words "to a Presidency Magistrate, District Magistrate, Sub Divisional Magistrate or Magistrate of the First Class", the words "to the court by which an order was made to give security" shall be substituted; and for word 'his' the word 'its' shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound, to appear or to be brought before it."

26 Amendment of section 133.—In sub-section (1) of section 133 of the principal Act,—

(i) for the words "a Magistrate of the First Class", the words "a Magistrate of the first class specially empowered by the State Government in this behalf" shall be substituted;

(ii) in the last paragraph, for the words "to appear before himself or some other Magistrate of the first or second Class" the words "to appear before himself or some other Executive Magistrate" shall be substituted.

27. Amendment of section 143.— In section 143 of the principal Act, for the words "A District Magistrate or Sub-Divisional Magistrate or any other Magistrate empowered by the State Government or the District Magistrate in this behalf", the words "A Magistrate of the First Class specially empowered by the State Government in this behalf or a District Magistrate or Sub-Divisional Magistrate, or any other Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf" shall be substituted.

28. Amendment of section 144.—In sub-section ( ) of section 144 of the principal Act, for the words and brackets "any other Magistrate, (not being a Magistrate of the third Class)", the words "any other Executive Magistrate" shall be substituted.

29. Amendment of section 164.—In sub-section (1) of section 164 of the principal Act, for the words "any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf by the State Government" the words "any District Magistrate, any Sub-Divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf" shall be substituted.

30. Amendment of section 167.—In section 167 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) Any Magistrate giving such order shall forward a copy of his order with his reasons for making it, to the Sessions Judge."

31. Amendment of section 170.—In section 170 of the principal Act, sub-section (3) shall be omitted.

32. Amendment of section 186.—In sub-section (1) of section 186 of the principal Act, for the words "a presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class" the words " a Judicial Magistrate " shall be substituted.

33. Amendment of section 187.—In sub-section (1) of section 187 of the principal Act, for the words "by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-Divisional Magistrate" the words "the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge', shall be substituted.

34. Amendment of section 190.—In section 190 of the principal Act,—

(1) in sub-section (1),

(a) the words "District Magistrate or Sub-Divisional Magistrate," shall be omitted;

(b) for the words "any other Magistrate" the words "any Magistrate of the first class, or any Magistrate of the second or third class" shall be substituted;

(2) sub-sections (2) and (3) shall be omitted.

35. Amendment of section 192.—In section 192 of the principal Act,

(1) sub-section (1) shall be omitted.

(2) in sub-section (2),—

(*a*) for the words "Any District Magistrate" the words "A Sessions Judge" shall be substituted;

(*b*) for the words "in his district", the words "in the Sessions Division" shall be substituted.

36. Amendment of section 206.—In sub-section (1) of section 206 of the principal Act, the words "District Magistrate, Sub-Divisional Magistrate" shall be omitted.

37. Amendment of section 249.—In section 249 of the principal Act, the words "a Presidency Magistrate, a Magistrate of the First Class or with the previous sanction of the District Magistrate, any other Magistrate" the words "a Judicial Magistrate" shall be substituted.

38. Amendment of section 260.—In sub-section (1) of section 260 of the principal Act, the clause "(*a*) District Magistrate" shall be omitted.

39. Amendment of section 337.—In the proviso to sub-section (1) of section 337 of the principal Act, the words "other than the District Magistrate" shall be omitted; and for the words "sanction of the District Magistrate", the words "sanction of the Sessions Judge" shall be substituted.

40. Amendment of section 346.—In sub-section (1) of section 346 of the principal Act, after the words "District Magistrate" the words "or Sessions Judge, as the case may be," shall be inserted.

41. Amendment of section 349.—In section 349 of the principal Act,—

(1) in sub-section (1), for the words "to the District Magistrate or Sub-Divisional Magistrate, to whom he is

subordinate", the words "to a Magistrate of the first class specially empowered in this behalf by the State Government" shall be substituted;

(2) in sub-section (1A), for the words "the District Magistrate or Sub-Divisional Magistrate", the words, brackets and figure "the Magistrate empowered under sub-section (1)" shall be substituted.

42. Amendment of section 380.—In section 380 of the principal Act, the words "or a Sub-Divisional Magistrate" shall be omitted.

43. Amendment of section 406A.—In section 406A of the principal Act, for clauses (*b*) and (*c*), the following clause shall be substituted, namely :—

"(*b*) if made by any other Magistrate, to the Court of Session."

44. Insertion of new section 406AA.—After section 406A of the principal Act, the following section shall be inserted, namely :—

"**406AA. Appeal from direction made by District Magistrate to make further inquiry into proceedings in which an order of relase or discharge has been made under section 119.**—Any person aggrieved by a direction made by a District Magistrate under sub-section (2) of section 436 requiring any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him, to make further inquiry into any proceedings in which an order of release or discharge has been made by him under section 119, may appeal against such directions to the Court of Session."

45. Substitution of new section for section 408.—For section 408 of the principal Act, the following section shall be substituted, namely :—

"**408. Appeal from sentence of Assistant Sessions Judge or any Magistrate.**—Any person convicted on a trial held by an Assistant Sessions Judge or a Judicial Magistrate

or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate may appeal to the Court of Session :

Provided that—

(1) when in any case an Assistant Sessions Judge or a Judicial Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ; and

(2) when any person is convicted for an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court."

46. Amendment of section 413.—In section 413 of the principal Act, for the words "District Magistrate or other Magistrate", the words "a Magistrate" shall be substituted.

47. Amendment of section 435.—In section 435 of the principal Act,

(i) in sub-section (1) the words "or District Magistrate, or any Sub-Divisional Magistrate empowered by the State Government in this behalf" and the explanation to the said sub-section shall be omitted ;

(ii) sub-sections (2) and (4) shall be omitted.

48. Amendment of section 436.—In section 436 of the principal Act, for the words "may direct the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make," the words "may direct the Judicial Magistrate to make" shall be substituted.

49. Amendment of section 437.—In section 437 of the principal Act, the words "or District Magistrate" and "or Magistrate" wherever they occur shall be omitted.

50. Amendment of section 438.—In section 438 of the principal Act, the words "or District Magistrate" shall be omitted.

51. Insertion of new section 476C.—After section 476B of the principal Act, the following section shall be inserted, namely :—

"**476C. Power to order costs.**—A criminal court dealing with an application made to it for filing a complaint under section 476 or section 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application for revision shall have power to make such order as to costs as may be just :

Provided that no such order shall be made against the Government or any other public servant acting on behalf of the Government."

52. Amendment of section 479.—In section 479 of the principal Act, the words "District Magistrate" shall be omitted.

53. Amendment of section 438.—In sub-section (1) of section 438 of the principal Act, the words "the District Magistrate" and "a Sub-divisional Magistrate" shall be omitted.

54. Amendment of section 515.—In section 515 of the principal Act,

(i) the words "or District Magistrate" shall be omitted; and

(ii) for the words "the District Magistrate" the words "the Sessions Judge" shall be substituted.

55. Insertion of new Chapter XLII A.—After Chapter XLII of the principal Act, the following chapter shall be inserted, namely :—

"CHAPTER XLII A.

OF COSTS TO BE PAID BY THE COMPLAINANT OR INFORMANT

56AA. Power to order costs against complainant or informant.—(1) If in any case instituted upon complaint or upon information given to a Police Officer or to a Magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A, and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person ; or if the complainant or informant is not present, direct the issue of notice to him to appear and show cause as aforesaid.

(2) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fee which the court considers reasonable.

(3) The court may, by the order directing the payment of costs under sub-section (2), further order that on default of payment, the person ordered to pay such costs shall suffer simple imprisonment for a pericd not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code, shall, so far as may be, apply.

(5) No person who has been directed to pay costs by an order made under this section shall, by reason of such

order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(6) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or the informant may, within sixty days from the date of the order, appeal against it to the Court of Session.

(7) In cases where the order is appealable under sub-section (6), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and in other cases, the costs shall not be paid before the expiration of one month from the date of the order."

56. Amendment of section 524.—In sub-section (1) of section 524 of the principal Act, for the words "of a Magistrate of the first class", the words "of an Executive Magistrate" shall be substituted.

57. Amendment of section 528.—In section 528 of the principal Act,—

(i) in sub-section (2), for the words "District Magistrate, or Sub-divisional Magistrate", the words "Sessions Judge" shall be substituted;

(ii) in the marginal note to sub-section (2), for the words "District or Sub-divisional Magistrate", the words "Sessions Judge" shall be substituted;

(iii) after sub-section (3), the following sub-section shall be inserted, namely:—

(3A) Where the District Magistrate authorised under sub-section (3) withdraws any case from any Magistrate subordinate to him, he may enquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to enquire into or try the same."

(iv) sub-section (6) shall be omitted.

58. Insertion of new sections 539C and 539D.—After section 539B of the principal Act, the following sections shall be inserted, namely :—

"**539C. Other powers of magistrates.**—Any magistrate shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by any law for the time being in force.

539D. Attestation, etc., of documents and use of seal by Justice of the Peace.—Any Justice of the Peace (not being a legal practitioner) shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix such seal thereon as may be prescribed by the State Government by notification in the official Gazette."

59. Insertion of new sections 554-A and 554-B.—After section 554 of the principal Act, the following sections shall be inserted namely :—

554A. Seal of Courts.—Every Criminal Court under this Code shall use a seal which shall bear thereon the Mysore State Emblem and shall be in such form, of such dimensions and with the name of the Court in such languages as the State Government may by order in the official Gazette determine.

554B. Holidays.—The Criminal Courts in the State or in any area of the State shall be closed on such days as may be notified by the State Government in the official Gazette as public holidays for the whole State or for such area in the State."

60. Amendment of section 559.—In sub-section (2) of section 559 of the principal Act, for the words "the District Magistrate" the words "the Sessions Judge" shall be substituted.

61. Amendment of section 561.- -In section 561 of the principal Act, for the words "District Magistrate" in both the places where they occur, the words "a Magistrate of the first class" shall be substituted.

62. Amendment of section 562.—In the proviso to sub-section (1) of section 562 of the principal Act, the words "or Sub-divisional Magistrate" shall be omitted.

63. Amendment of section 565.—In sub-section (1) of section 565 of the principal Act, the words "District Magistrate, Sub-Divisional Magistrate" shall be omitted.

64. Amendment of Schedule II—In column 8 of Schedule II to the principal Act,—

(i) for the words "Any Magistrate" wherever they occur, the words "Any Judicial Magistrate" shall be substituted;

(ii) in the entry relating to section 124A, the words "or District Magistrate" shall be omitted;

(iii) in the entry relating to section 376, for the words "District Magistrate", the words "Magistrate of the First Class" shall be substituted;

(iv) in the entry relating to section 509, in the third column, for the words "Shall not", the word "May" shall be substituted; and

(v) in the entry relating to section 510, in the third column, for the word "Ditto", the words "Shall not arrest without warrant" shall be substituted.

65. Amendment of Schedule III.—In Schedule III to the principal Act,—

(a) in item (17) of Part I, for the words "District Magistrate", the words "Sessions Judge" shall be substituted;

(b) in Part III,—

(i) after item (1), the following item shall be inserted, namely :—

"(1A) Power to direct warrants to land-holders, section 78."

(ii) items (4), (5) and (6A) shall be omitted;

(iii) after item (7b), the following item shall be inserted namely :—

"(7c) Power to take cognisance of offences upon complaint, upon police report and without complaint, section 190."

(c) after Part III, the following Part shall be inserted, namely :—

"**IIIA. Ordinary powers of a Taluk Magistrate.**—(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence, of an offender, section 65.

(3) Power to endorse a warrant, or, to order removal of an accused person arrested under a warrant, sections 83, 84 and 85.

(4) Power to require search to be made for letters and telegrams, section 95.

(5) Power to issue search warrant, section 96.

(6) Power to endorse a search warrant and order delivery of things found, section 99.

(7) Power to command unlawful assembly to disperse, section 127.

(8) Power to use civil force to disperse unlawful assembly, section 128.

(9) Power to require military force to be used to disperse unlawful assembly, section 130.

(10) Power to recover penalty on forfeited bond, section 514; and to require fresh security, section 514A.

(11) Power to make order as to disposal of property, section 517.

(12) Power to sell perishable property, section 525."

(*d*) in Part IV,—

(i) for item (1), the following item shall be substituted, namely :—

"(1) The ordinary powers of a Taluk Magistrate".

(ii) after item (2), the following items shall be inserted, namely :—

"(2a) Power to issue search warrant otherwise than in the course of an inquiry, section 98.

(2b) Power to issue search warrant for discovery of persons wrongfully confined, section 100.

(2c) Power to require security to keep the peace, section 107.

(2d) Power to require security for good behaviour, section 108.

(2e) Power to require security for good behaviour, section 109."

(iii) after item (3), the following items shall be inserted, namely :—

"(4) Power to discharge sureties, section 126A.

(4a) Power to make orders as to local nuisances, section 133."

(iv) after item (8), the following item shall be inserted, namely :—

"(8a) Power to record statements and confessions during a police investigation, section 164."

(v) for item (9), the following item shall be substituted, namely :—

"(9) Power to hold inquests, section 174."

(vi) items (12) to (16) both inclusive shall be omitted.

(vii) item (19) shall be omitted.

(*e*) In Part V,—

(i) items (1a), (7), (8), (9), (9a), (10), (11), (12), (13), (14) and (19) shall be omitted.

(ii) in item (4), the words "in case of sedition" shall be omitted.

66. Substitution of new Schedule for Schedule IV.—For Schedule IV to the principal Act, the following Schedule shall be substituted, namely :—

SCHEDULE IV

(*See* sections 37 and 38)

PART I

Additional powers with which Magistrates may be invested. By the State Government.

I. Powers with which a Magistrate of the First Class may be invested :—

(1) Power to require security to keep peace, section 107.

(2) Power to require security for good behaviour in case of sedition section 108.

(3) Power to require security for good behaviour section 109.

(4) Power to require security for good behaviour section 110.

(5) Power to make orders as to local nuisances section 133.

(6) Power to make orders prohibiting repetition of nuisances, section 143.

(7) Power to make orders under section 144.

(8) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(9) Power to try summarily section 260.

(10) Power to pass sentence on proceedings recorded by a Magistrate of the Second Class or Third Class, section 349.

(11) Power to try cases under section 124A of the Indian Penal Code.

II. Powers with which a Magistrate of the Second Class may be invested :—

(1) Power to record statements and confessions during a police investigation, section 164.

(2) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.

(3) Power to hold inquests, section 174.

(4) Power to take cognizance of offences upon complaint, section 190.

(5) Power to take cognizance of offences upon police reports, section 190.

(6) Power to take cognizance of offences without complaint, section 190.

(7) Power to commit for trial, section 206.

(8) Power to make order as to first offenders, section 562.

III. Powers with which a Magistrate of the Third Class may be invested :—

(1) Power to record statements and confessions during a police investigation, section 164.

(2) Power to hold inquests, section 174.

(3) Power to take cognizance of offences upon complaint, section 190.

(4) Power to take cognizance of offences upon police reports, section 190.

(5) Power to take cognizance of offences without complaints, section 190.

IV. Powers with which a Taluk Magistrate may be invested :—

(1) Power to make orders prohibiting repetition of nuisances, section 143.

(2) Power to make orders under section 144.

(3) Power to make record statements and confessions during a police investigation, section 174.

(4) Power to hold inquests, section 174.

(5) Power to sell property alleged or suspected to have been stolen, etc., section 524.

Part II

By a District Magistrate.—Powers with which a Taluk Magistrate may be invested :—

(1) Power to make orders prohibiting repetitions of nuisances, section 143.

(2) Power to make orders under section 144."

67. Amendments to certain Acts specified in the Schedule.—The Acts specified in the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Mysore are hereby amended to the extent mentioned in the Third column of the Schedule.

68. Amendments not to render invalid notifications, orders, etc., issued before commencement of the Act.—The provisions of this Act, which amend the Code of Criminal Procedure, 1898, and any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, bye-law, rule, regulation or instrument duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, attachment, bye-law, rule, regulation or instrument or thing done may be revoked,

varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act, by a competent authority and in accordance with the provisions then applicable to such case.

69. Saving.—(1) Save as provided in this section, nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequences of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area ;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date ;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date ;

(*d*) any investigation, legal proceedings or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment ; and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, for feiture or punishment may be imposed in accordance with the provisions of the relative enactments as amended by this Act.

(2) All legal proceedings pending before a magistrate or court on the date on which this Act comes into force shall, if such magistrate or court ceases to have jurisdiction in respect of such proceedings under the provisions of the relative enactment as amended by this Act, stand transferred to the magistrate or court having jurisdiction as amended by this Act, and shall be heard and disposed of by such magistrate or court and such magistrate or the court shall have all the powers and jurisdiction thereof as if they ha been originally instituted before such magistrate or in such court.

SCHEDULE

(*See* section 67)

Sl. No.	Short title	Extent of amendment
1	The Press and Registration of Books Act, 1867.	In section 1, for the words "Magistrate" means any person exercising the full powers of a magistrate and includes a magistrate of Police",the words"Magistrate" means Judicial Magistrate" shall be substituted.
2	The Sarais Act, 1867	In section 14, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.
3	The Indian Christian Marriage Act, 1872.	In section 7, for the words "Magistrate of the district" the words "District Magistrate" shall be substituted.
4	The Indian Fisheries Act 1897.	In section 7, for the word "Magistrate" the words "Judicial Magistrate", shall be substituted.
5	The Indian Electricity Act, 1910.	In section 54, for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted.
6	The Lunacy Act, 1912	In section 3, for clause (6), the following clause shall be substituted, namely:— "(6) Magistrate" means a Judicial Magistrate".
7	The Payment of Wages Act, 1936.	In section 15 for the words "Stipendiary Magistrate", the words "Judicial Magistrate" shall be substituted.
8	The Minimum Wages Act, 1948.	In sub-section (1) of section 20, for the words "Stipendiary Magistrate"thewords Judicial Magistrate"shall be substituted.
9	The Madras Coffee Stealing Prevention Act, 1878.	(i) In section 6, for the word" Magistrate" the words "Executive Magistrate" shall be substituted. (ii) For the word "Magistrate" occurring in sections 9 and 13, the words "Judicial Magistrate" shall be substitued.

Sl. No.	Short title	Extent of amendment
10	The Madras Public Health Act, 1939.	(i) In section 46, for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted. (ii) In section 75, for the words "any Magistrate" the words "any Executive Magistrate" shall be substituted. (iii) In section 76, in clause (*a*) of sub-section (3), for the words "a Magistrate" occurring for the first time, the words "an Executive Magistrate" shall be substituted. (iv) In section 141, for the words "nearest Magistrate", the words "nearest Judicial Magistrate" shall be substituted.
11	The Madras Compulsory Labour Act, 1858.	In section 2, for the word "Magistrate" at both the places in which it occurs the words "Judicial Magistrate" shall be substituted.
12	The Mysore Coffee Stealing Prevention Act 1878.	For the word "Magistrate" wherever it occurs, the words "Judicial Magistrate" shall be substituted.
13	The Land Acquisition Act, 1894.	(i) In section 46, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. (ii) In section 47, for the words "a Magistrate" the words "an Executive Magistrate" shall be substituted.
14	The Mysore Lepers Act, 1925.	(i) In section 7,— (*a*) in clause (b) of sub-section (1), for the words "a Magistrate" the words "an Executive Magistrate" shall be substituted; (*b*) in sub-section (2), for the word "Magistrate" at the two places where it occurs, the words "Executive Magistrate" shall be substituted.

Sl. No.	Short title	Extent of amendment
		(ii) In section 8, in sub-section (1), for the words "Magistrate of the First class or to any other Magistrate", the words "any other Executive Magistrate" shall be substituted.
15	The Mysore Public Health Act, 1944.	(i) In section 47, for the words "to a Magistrate", the words "to an Executive Magistrate" shall be substituted. (ii) In section 68, for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted. (iii) In Section 77, in clause (a) of sub-section (3), for the words "before a Magistrate", the words "before an Excutive Magistrate" shall be substituted. (iv) In section 75, for the words "any Magistrate" the words "any Executive Magistrate" and for the words "a Magistrate" wherever it occurs, the words "an Executive Magistrate" shall be substituted. (v) In section 76, for the words "any Magistrate" the words "any Executive Magistrate" shall be substituted. (vi) In section 143, in clause (b), for the word "Magistrate", the words "a Judicial Magistrate" shall be substituted.
16	The Mysore Prohibition of Beggary Act, 1944.	(i) For the words "the Magistrate" occurring in sections 15 and 16 and in sub-section (1) of section 18, the words "the Executive Magistrate" shall be substituted. (ii) For the word "Magistrate" occurring in sub-section (2) of section 18 and in section 20, the words "Judicial Magistrate" shall be substituted.

Sl. No.	Short title	Extent of amendment
17	The Mysore Lotteries and Prize Competitions Control and Tax Act, 1951.	In section 18, (a) in clause (2) for the words "a Magistrate of the First Class", the words "an Executive Magistrate" shall be substitued. (b) in clause (c), for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.
18	The Mysore Police Act, 1963.	(i) In section 67, for the word "Magistrate" the words "Judical Magistrate" shall be subsituted. (ii) In sectiou 71, for the word "Magistrate the words "Judicial Magistrate" shall be substitued, (iii) In section 72, for the word "Magistrate" the words "Executive Magistrate" shall be substited. (iv) In section 121, for the word "Magistrate", the words Judicial Magistrate shall be substituted.
19	The Mysore Prisons Act: 1963 (Mysore Act 33 of 1963).	In sub-section (2) of section 57, for the words "before a Magistrate", the words "before a Judicial Magistrate" shall be substituted.
30	The Coorg Registration of Births and Deaths Act: 1932.	In section 18, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.
21	The Coorg Agricultural Pests and Diseases Act, 1933.	(i) In section 15, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. (ii) In section 16, for the word "Magistrate", the words "Judicial Magistrate shall be substituted.
22	The Hyderabad Ferries Act, 1314 Fasli.	In section 29, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.
23	The Cattle Trespass Act, 1337 Fasli.	(i) In section 18, in sub-section (1), for the word "Magistrate," the words "Judicial Magistrate" shall be substituted. (ii) In section 21, for the words "Taluk Magistrate",, the words "Judicial Magistrate", shall be substituted.

Sl. No.	Short title	Extent of amendment
24	The Prevention of Beggary Act, 1350 Fasli.	In section 2, in sub-section (2), for the words "the Magistrate" the words "an Executive Magistrate" shall be substituted.
25	The Hyderabad Fisheries Act, 1356 Fasli.	In section 6, in sub-section (2), for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted.
26	The Hyderabad Registration of Births and Deaths Regulation, 1359 Fasli.	For the word "Magistrate" wherever it occurs, the words "Judicial Magistrate" shall be substituted.
27	The Hyderabad Leprosy Act, 1953.	(i) In section 7, in clause (b), for the words "before a Magistrate" the words "before an Executive Magistrate" shall be substituted. (ii) In section 8, the words "any Magistrate of the First Class or to" shall be omitted. (iii) In section 9, in the proviso, for the words 'the Magistrate", the words "Judicial Magistrate" shall be substituted. (iv) In section 10, (a) in sub-section (1), for the words "the Magistrate", the words "the Judicial Magistrate" shall be substituted. (b) sub-section (3) shall be omitted. (v) In section 11, for the words "before the Magistrate", the words "before the Judicial Magistrate" shall be substituted.

Statement of Objects and Reasons

The scheme of separation of the judiciary is in force in all the integrated areas of the State. The scheme has been given effect to in accordance with the executive orders issued in this behalf, in all the integrated areas, except the Bombay Area. In Bombay Area, the scheme has been given effect to by the Bombay Separation of Judicial and Executive Functions Act, 1951. The Law Commission in its report on the reform of Judicial Administration has observed that the scheme of separation could be more effectively brought into operation by undertaking legislation on the lines of the Bombay Separation of Judicial and Executive Functions Act, 1951 (Bombay Act XXIII of 1951). It is therefore considered expedient to amend the Code of Criminal Procedure in its application to the State of Mysore so as to provide for a uniform law for the separation of the performance of judicial functions and executive functions by the officers in the State. Opportunity has been taken to make certain other amendments considered necessary.

M. V. RAMA RAO.

G. S. VENKATARAMANA IYER.
Secretary,

ANNEXURE

Extracts from the Code of Criminal Procedure, 1898 (Central Act 5 of 1898).

* * *

6. *Classes of Criminal Courts.*—Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in India, namely :—

I. Courts of Session.
II. Presidency Magistrates.
III. Magistrates of the First Class.
IV. Magistrates of the Second Class.
V. Magistrates of the Third Class.

7. *Sessions divisions and districts.*—(1) Every State excluding the presidency-towns shall be a sessions division, or shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district of consist or districts.

Power to alter divisions and districts.—(2) The State Government may alter the limits, or the number of such divisions and districts.

Existing divisions and districts maintained till altered.—(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency towns to be deemed districts.—(4) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

* * * *

10. *District Magistrate.*—(1) In every district outside the presidency-towns the State Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(2) The State Government may appoint any Magistrate of the first class to be an Additional District Magistrate and such Additional District Magistrate shall have all or any of powers of a District Magistrate under this Codeor under any other law for the time being in force as the State Government may direct.

(3) For the purposes of Sections 192, sub-S (1), S 407, sub-S (2) and S 528, sub-section (2) and (3) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

12. *Subordinate Magistrates and local limits of their jurisdiction.*—(1) The State Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the State Government or the District Magistrate, subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under the Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

13. *Power to put Magistrate in charge of sub-division.*—(1) The State Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(2) Such Magistrates shall be called sub-divisional Magistrates.

Delegation of powers to District Magistrate.—(3) The State Government may delegate its powers under this section to the District Magistrate.

14. *Special Magistrates.*—(1) The State Government may confer upon any person who holds or has held any judicial post under the Union or a State or possesses such other qualifications as may, in consultation with the High Court be specified in this behalf by the State Government by notification in the Official Gazette all or any of the powers conferred or conferable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency towns.

(2) Such Magistrate shall be called Special Magistrates, and shall be appointed for such term as the State Government may by general or special order direct.

(3) The State Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (1).

(4) No powers shall be conferred under this section on any Police Officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a Police Officer except so far as may be necessary for preserving the peace, preventing crime and

detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. *Benches of Magistrates.*—(1) The State Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such power in such cases, or such classes of cases only, and within such local limits, as the State Government thinks fit.

* *

16. *Power to frame rules for guidance of Benches.*—The State Government may, or, subject to the control of the State Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates Benches in any district respecting the following subjects :

(*a*) the classes of cases to be tried ;
(*b*) the times and places of sitting ;
(*c*) the constitution of the Bench for conducting trials ;
(*d*) the mode of setting differences of opinion which may arise between the Magistrates in session.

17. *Subordinaton of Magistrates and Benches to District Magistrate.*—(1) All Magistrates appointed under sections 12, 13 and 14, and all benches constituted under section 15 shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

to Sub-Divisional Magistrate.—(2) Every Magistrate other than a Sub-Divisional Magistrate and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate.

* * * *

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided :

28. Subject to the other provisions of this Code any offence under the Indian Penal Code may be tried—

(*a*) by the High Court or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

29. *Offences under other laws.*—(1) Subject to the other provisions of this Code any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by the High Court or subject as aforesaid by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

29-B. *Jurisdiction in the case of juveniles.*—Any offence, other than one punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government to exercise the powers conferred by section 8, sub-section (1), of the Reformatory Schools Act, 1897 (8 of 1897) or in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.

30. *Offences punishable with imprisonment not exceeding seven years.*—Notwithstanding anything contained in section 28 or section 29, the State Government may, in consultation with the High Court, invest any District Magistrate, Presidency Magistrate or Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years :

Provided that no District Magistrate, Presidency Magistrate or Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class.

* * * *

36. *Ordinary powers of Magistrates.*—All Districts Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the Third Schedule. Such powers are called their ordinary powers.

37. *Additional powers conferrable on Magistrates.*—In addition to his ordinary powers, any Sub-Divisional Magistrate or any Magistrate of the first, second or third class may be invested by the State

Government or the District Magistrate, as the case may be, with any powers specified in the Fourth Schedule as powers with which he may be invested by the State Government or the District Magistrate.

38. *Control of District Magistrate's investing powers.*—The powers conferred on the District Magistrate by Section 37 shall be exercised subject to the control of the State Government.

* * * *

57. *Refusal to give names and residence.*—(1) when any person who in the presence of a Police Officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

* * * *

63. *Discharge of person apprehended.*—No person who has been arrested by a Police Officer shall be discharged except on his own bond. or on bail, or under the special order of a Magistrate.

* * *

78. *Warrant may be directed to landholders, etc.*—(1) A District Magistrate or Sub-Divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

*

88. *Attachment of property of person absconding.*—(1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, movable or immovable. or both, belonging to the proclaimed person.

* *

(6-A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6-B) Claims or objections under sub-section (6-A) may be preferred or made in the Court by which the order of attachment is isssued ; or if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6-C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

106. *Security for keeping the peace on conviction.*—(1) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same or any person accused of committing criminal intimidations, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

* * *

107. *Security for keeping the peace in other cases.*—(1) Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

* * *

108. *Security for good behaviour from persons disseminating seditious matter.*—Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the State Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

* * * *

126. *Discharge of sureties.*—(1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-Divisional

Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

* * * *

133. *Conditional order for removal of nuisance.*—(1) Whenever a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class considers, on receiving a police report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or,

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of or to remove, repair or support such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

* * *

143. *Magistrate may prohibit repetition or continuance of public nuisance.*—A District Magistrate or Sub-Divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

144. *Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.*—(1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-Divisional Magistrate, or of any other Magistrate not being a Magistrate of the third class specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable.

Such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.

* * * *

164. *Power to record statements and confessions.*—(1) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by

the State Government may, if he is not a Police Officer record any [illegible] to him in the course of an investigation under this Chapter or under any other law for the time being in force or at any time afterwards before the commencement of the inquiry or trial.

* * * *

167. *Procedure when investigation cannot be completed in twenty-four hours.*—(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61 and there [illegible] that the accusation or information is well-[illegible], the officer in charge of the police station or the police officer making the investigation if he is not below the rank of Sub-Inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction :

Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the State Government shall authorize detention in the custody of the police.

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate or Sub-Divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

* *

170. *Case to be sent to Magistrate when evidence is sufficient.*—

* * * *

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted

with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate or Sub-Divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

* * * *

186. *Power to issue summons or warrant for offence committed beyond local jurisdiction—Magistrate's procedure on arrest.*—(1) When a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate, or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits of whether within or without India an offence which cannot, under the provisions of sections 177 to 185 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

* * * *

187. *Procedure where warrant issued by Subordinate Magistrate.*—(1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-Divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

* * * *

190. *Cognizance of offences by Magistrates.*—(1) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate and any other Magistrate specially empowered in this behalf may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a report in writing of such facts made by any police officer;

(c) upon information received from any person other than a police officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The State Government or the District Magistrate subject to the general or special orders of the State Government, may empower any Magistrate to take cognizance under sub-section (1), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(3) The State Government may empower any Magistrate of the first or second class to take cognizance under sub-section (1), clause (*c*), of offences for which he may try or commit for trial.

* * * *

192. *Transfer of cases by Magistrates.*—(1) Any Chief Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate may transfer any case of which he has taken cognizance, for enquiry or trial, to any Magistrate subordinate to him.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

206. *Power to commit for trial.*—(1) Any Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

* * * *

249. *Power to stop proceedings when no complainant.*—In any case instituted otherwise than upon complaint a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings, at any stage without pronouncing any judgement either of acquittal or conviction, and may thereupon release the accused.

* *

260. *Power to try summarily.*—(1) Notwithstanding anything contained in this Code—

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the State Government, and

(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the State Government, may, if he or they think fit, try in a summary way all or any of the following offences :

* * * *

337. *Tender of pardon to accomplice.*—(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to seven years or any offence under any of the following sections of the Indian Penal Code, namely, Sections 161, 165, 165-A, 216-A, 369, 401, 435 and 477-A, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor, in the commission thereof:

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

* * * *

346. *Procedure of* [*State*] *Magistrate in cases which he cannot dispose of.*—(1) If, in course of an inquiry or a trial before a Magistrate in any district outside the presidency towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

* *

349. *Procedure when Magistrate cannot pass sentence sufficiently severe.*—(1) Whenever a Magistrate of the second or third class, having juridiction, is of opinion, after having the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under Section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate.

(1-A) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-Divisional Magistrate.

380. *Procedure in cases submitted by Magistrate not empowered to act under Section 562.*—Where proceedings are submitted to a Magistrate of the first class or a Sub-Divisional Magistrate as provided by Section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

* *

406-A. *Appeal from order refusing to accept or rejecting a surety.*—Any person aggrieved by an order refusing to accept or rejecting a surety under Section 122 may appeal against such order—

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by the District Magistrate, to the Court of Session; or

(*c*) if made by a Magistrate, other than the District Magistrate, to the District Magistrate.

*

408. *Appeals from sentence of Assistant Sessions Judge or any other Magistrate.*—Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or any other Magistrate, or any person sentenced under Section 349 or in respect

of whom an order has been made or sentence has been passed under Section 380 by any Magistrate, may appeal to the Court of Session :

Provided as follows :

*

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under Section 30 passes any sentence of imprisonment for a term exceeding four years, of all or any of the accused convicted at such trial shall lie to the High Court ;

(*c*) when any person is convicted by a Magistrate of an offence under Section 124-A of the Indian Penal Code, the appeal shall lie to the High Court.

*

413. *No appeal in petty cases.*—Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

435. *Power to call for records of inferior Courts.*—(1) The High Court or any Sessions Judge or District Magistrate, or any Sub-Divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence or order be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge, for the purposes of this sub-section and of section 437.

(2) If any Sub-Divisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by either of them.

437. *Power to order commitment.*—When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been in the opinion of the Sessions Judge or District Magistrate, improperly discharged:

Provided as follows :—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

438. *Report to High Court.*—(1) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under Section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence or an order be reversed or altered, may order that the execution of such sentence or order be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

CHAPTER XXXV

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

* * *

479. *Procedure of Civil or Revenue Court in such cases.*—When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

*

488. *Order for maintenance of wives and children.*—(1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding five hundred rupees in the whole, as such Magistrate thinks fit and to pay the same to such person as the Magistrate from time to time directs.

* *

PROCEDURE ON FORFEITURE OF BOND

514. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court, that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the attachment and sale of any moveable property belonging to

such person without such limits when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the Civil Jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond [1](* * *).

(7) When any person who has furnished security under Section 106 or Section 118 or Section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under Section 514-B a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties and, if such certified copy is so used the Court shall presume that such offence was committed by him unless the contrary is proved.

515. *Appeal from, and revision of, orders under section* 514.— All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

* *

CHAPTER XLIII

Of Disposal of Property

* * *

524. *Procedure where no claimant appears within six months.*— (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate, or of a Magistrate of the first class empowered by the State Government in this behalf.

* * * *

528. (1) * * *

(2) Any Chief Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(3) The State Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

* *

(6) The head of a village under the Madras Village Police Regulation, 1816, or the Madras Village Police Regulation, 1821, is a Magistrate for the purpose of this section.

* * *

559. *Provision for powers of Judges and Magistrates being exercised by their successors in office.*—(1) * *

* * *

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a presidency town, and the District Magistrate outside such towns shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

* * * *

561. *Special provisions with respect to offence of rape by a husband.*—(1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate, or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police officer with respect to such an offence as is referred to in sub-section (1), no police officer of a rank below that of police-Inspector shall be employed either to make, or to take part in, the investigation.

562. *Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.*—(1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the State Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate, forwarding the accused, to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

565. *Order for notifying address of previously convicted offender.*—(1) When any person having been convicted—

(*a*) by a Court in India of an offence punishable under section 215, section 489-A, section 489-B, section 489-C, or section 489-D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years, or upwards, or

(*b*) before the 26th day of January, 1950, by Court or Tribunal in any Indian State acting under the general or special authority of the Central Government or of the Crown Representative, of any offence which would, if committed in India, have been punishable under any of the aforesaid sections or chapters of the Indian Penal Code with like imprisonment for a like term,

is again convicted of any offence punishable under any of those sections or chapters with imprisonment for a term of three years or

upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit at the time of passing sentence of imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

EXTRACTS FROM SCHEDULE II OF THE CRIMINAL PROCEDURE CODE, 1898.

SCHEDULE II

TABULAR STATEMENT OF OFFENCES.

Section	*Offence*	* * * * *	*By what Court triable*
1	2	3 4 5 6 7	8
*	*		*
140	Wearing the dress or carrying any token used by a soldier, (sailor or airman) with intent that it may be believed that he is such a soldier, (sailor or airman).		Any Magistrate.
*			*
143	Being member of an unlawful Assembly.		Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.		Any Magistrate
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.		Ditto.
147	Rioting		Ditto
*			*
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.		Any Magistrate.
*			*
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.		Any Magistrate.
*	*		*

1	2	3	4	5	6	7	8
160	Committing affray						Any Magistrate
	*						*
170	Personating a public servant.						Any Magistrate
171	Wearing garb or carrying token used by Public servant with fraudulent intent,						Ditto

(CHAPTER IX-A—OFFENCES RELATING TO ELECTIONS)

* *

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172	Absconding to avoid service of summons or other proceeding from a public servant.	Any Magistrate
	If summons or notice require attendance in person, etc. in a Court of Justice.	Any Magistrate
	*	*
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom, without authority.	Any Magistrate
	*	

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

	*	*
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	Any Magistrate
286	So dealing with any explosive substance.	Ditto
	*	*

1	2	3	4	5	6	7	8
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.						Any Magistrate.
290	Committing a public nuisance.						Ditto
	*	*					*
294	Obscene songs						Any Magistrate
294A	Keeping a lottery office						Any Magistrate.
	CHAPTER XVI—Offences affecting the Human Body						
	*	*					*
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.						Any Magistrate.
	*	*					
	Of Wrong Restraint and Wrongful Confinement						
341	Wrongfully restraining any person.						Any Magistrate.
	*	*					*
	Of Criminal force and Assault.						
352	Assault or use of criminal force otherwise than on grave provocation.						Any Magistrate.
	*						*
356	Assault or Criminal force in attempt to commit theft of property worn or carried by a person.						Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.						
358	Assault or use of criminal force on grave and sudden provocation.						
	*	*					
	Of Kidnapping, Abduction, slavery and Forced Labour.						
374	Unlawful compulsory labour						Any Magistrate..
	*						

1	2	3	4	5	6	7	8
	CHAPTER XVIII—OFFENCES AGAINST PROPERTY						
379	Theft						Any Magistrate.
380	Theft in a building, tent or vessel.						Ditto
	*	*					
	OF CRIMINAL MISAPPROPRIATION OF PROPERTY.						
403	Dishonest missappropriation of movable property, or convertingit to one's own use.						Any Magistrate.
	*	*					
	OF MISCHIEF.						
426	Mischief						Any Magistrate.
	*	*					*
	OF CRIMINAL TRESSPASS						
447	Criminal trespass	..					Any Magistrate.
448	House trespass						Ditto
	*						*
451	House-trespass in order to the commission of an offence punishable with imprisonment.						Any Magistrate.
	*	*					*
	CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.						
504	Insult intended to provoke a breach of the peace.						Any Magistrate.
	*	*					*
	Uttering any word or making any gesture intended to insult the modesty of woman, etc.	Shall not arrest without warrant.					Presidency Magistrate or Magistrate of the first class.
510.	Appearing in a public place etc., in a state of intoxication and causing annoyance to any person.	Shall not arrest without warrant.					Any Magistrate
511.	Attempting to commit offences punishable with imprisonment of life or imprisonment and in such attempt doing any act towards the commission of the offence.						The Court by which the offence attempted is triable.
	*						*
	If punishable with imprisonment for less than one year, or with fine only.						Any Magistrate

Extracts from Schedule III of the Criminal Procedure Code, 1898.

SCHEDULE III

Ordinary Powers of State Magistrates

I—Ordinary powers of a Magistrate of the third class.

* * * *

(17) Power to apply to District Magistrate to issue commission for examination of witnesses, section 506 (2).

* * *

III—Ordinary Powers of a Magistrate of the first class.

* * * *

(4) Power to require security to keep the peace, section 107.
(5) Power to require security for good behaviour, section 109.

* * * *

(6-a) Power to make orders as to local nuisances, section 133.

IV—Ordinary Powers of a Sub-Divisional Magistrate appointed under section 13.

(1) The ordinary powers of a Magistrate of the first class.

* * * *

(9) Powers to receive report of police officer and pass order, section 173.

(12) Power to entertain complaints, section 190.
(13) Power to receive police reports, section 190.
(14) Power to entertain cases without complaint, section 190.
(15) Power to transfer cases to a Subordinate Magistrate, section 192.
(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.

* *

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

* *

V—Ordinary Powers of a District Magistrate.

(1-A) Power to try juvenile offenders, section 29-B.

(4) Power to require scurity for good behaviour in case of sedition, section 108.

*

(7) Power to try summarily, section 260.

(8) Power to quash convictions in certain cases, section 350.

(9) Power to hear appeals from orders requiring security for keeping the peace or good behaviour, section 406.

(9-a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406-A.

(10). Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(11) Power to call for records, section 435.

(12) Power to order inquiry into complaint dismissed or case of accused discharged, section 436.

(13) Power to order commitment, section 437.

(14) Power to report case to High Court, section 438.

* * * *

(19) Power to hear appeals from or revise orders passed under sections 514, 515.

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